

**FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

JAMES DARRYL ALLEN, <i>Petitioner-Appellant,</i>  v.  GAIL LEWIS, Warden, <i>Respondent-Appellee.</i>
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No. 01-15503  
D.C. No.  
CV-99-20054-RMW  
ORDER

Appeal from the United States District Court  
for the Northern District of California  
Ronald M. Whyte, District Judge, Presiding

Argued and Submitted  
June 18, 2002—San Francisco, California

Filed July 15, 2002

Before: Mary M. Schroeder, Chief Judge, Stephen Reinhardt,  
Alex Kozinski, Diarmuid F. O'Scannlain, Stephen S. Trott,  
Pamela Ann Rymer, Andrew J. Kleinfeld, Sidney R. Thomas,  
M. Margaret McKeown, Richard C. Tallman and  
Johnnie B. Rawlinson, Circuit Judges.

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**COUNSEL**

David M. Porter, Assistant Federal Public Defender, Sacramento, California, for the petitioner-appellant.

Peggy S. Ruffra, Supervising Deputy Attorney General, and  
Dane R. Gillette, Senior Assistant Attorney General, San  
Francisco, California, for the respondent-appellee.

**ORDER**

The district court held that Allen's petition for a writ of habeas corpus under 28 U.S.C. § 2254 was filed sixteen days after the AEDPA one-year statute of limitations had expired. *See* 28 U.S.C. § 2244(d). After the panel opinion affirmed the district court, we decided *Bunney v. Mitchell*, 262 F.3d 973 (9th Cir. 2001), where we held that the California Supreme Court's denial of a petition for collateral relief does not become final until thirty days after the denial is issued. *Id.* at 974 (citing Rule 24 of the California Rules of Court). We so held after the California Supreme Court had declined to answer our certified question on this point. *Id.* (citing *Bunney v. Mitchell*, 249 F.3d 1188, 1188-89 (9th Cir. 2001)). Under *Bunney*, which we now reaffirm, the petition in this case was timely. The judgment of the district court is therefore REVERSED and the matter REMANDED for consideration of the petition for habeas corpus.



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